

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

REX ALLEN STRIPLIN, et al.,

Plaintiffs,

v.

**VAUGHN & SONS TRUCKING
LLC, et al.,**

Defendants.

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Case No. 19-cv-57-G

ORDER

On January 18, 2019, Plaintiffs filed their Complaint against Defendants Vaughn & Sons Trucking LLC (“Vaughn”), Tracy Geer (“Geer”), and Central Marketing Transport LLC (“CMT”). *See* Compl. (Doc. No. 1). Defendant Vaughn filed its Answer on February 15, 2019 (Doc. No. 6), and Defendant Geer filed his Answer March 21, 2019 (Doc. No. 8).

Without seeking leave of court, Plaintiffs filed an Amended Complaint against all Defendants on April 17, 2019. *See* Am. Compl. (Doc. No. 12). On May 9, 2019, an executed waiver of service was filed for Defendant CMT—which had not previously filed an answer or responsive pleading. *See* Waiver of Service (Doc. No. 16).

Under Rule 15(a)(1) of the Federal Rules of Civil Procedure, Plaintiffs’ Amended Complaint is untimely at least as to Defendants Vaughn and Geer.¹ The Court nonetheless

¹ Under Rule 15(a)(1), a plaintiff may amend his pleading once as a matter of right within: (1) “21 days after serving it”; or (B) “21 days after service of a responsive pleading” Fed. R. Civ. P. 15(a)(1). In a case involving multiple defendants, courts disagree about how to calculate these 21-day windows. Some courts hold that an amended complaint is effective only against those defendants who have served a responsive pleading within the previous 21 days. *See, e.g., Villery v. District of Columbia*, 277 F.R.D. 218, 219 (D.D.C.

accepts the Amended Complaint as timely filed, since Defendants Vaughn and Geer filed Answers to the Amended Complaint on May 1, 2019. *See* Answers to Am. Compl. (Doc. Nos. 14 and 15). The parties are advised that any further amendments must comply with the Federal Rules of Civil Procedure. The case will proceed according to the Scheduling Order entered on April 3, 2019.

IT IS SO ORDERED this 23rd day of May, 2019.


CHARLES B. GOODWIN
United States District Judge

2011). Other courts hold that an amended complaint is ineffective as to all defendants if it is filed more than 21 days after service of the first responsive pleading. *See, e.g., Allen v. Vintage Pharm. LLC*, No. 5:18-CV-00329-TES, 2019 WL 542981, at *3 (M.D. Ga. Feb. 11, 2019). Under either line of authority, Plaintiffs' deadline for amending their allegations as a matter of right expired on March 8, 2019, with respect to Defendant Vaughn, and on April 11, 2019, with respect to Defendant Geer.